

**TWENTY-FIFTH DAY.**

Senate Chamber,  
Austin, Texas,

Tuesday, February 13, 1923.

The Senate met at 10 o'clock a. m., pursuant to adjournment, and was called to order by Lieutenant Governor T. W. Davidson.

The roll was called, a quorum being present, the following Senators answering to their names:

Bailey.	Parr.
Baugh.	Pollard.
Bledsoe.	Rice.
Bowers.	Ridgeway.
Burkett.	Rogers.
Clark.	Strong.
Cousins.	Stuart.
Darwin.	Thomas.
Davis.	Turner.
Doyle.	Watts.
Fairchild.	Wirtz.
Holbrook.	Witt.
Lewis.	Wood.
McMillin.	Woods.
Murphy.	

Absent—Excused.

Dudley. Floyd.

Prayer by the chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Bledsoe.

See Appendix for committee reports and petitions.

**Bills and Resolutions.**

By Senator Baugh:

S. B. No. 313, A bill to be entitled "An Act to amend Chapter Ten (10) of Title Forty Eight (48) of the Revised Civil Statutes of 1911 relating to the powers and duties of the State Board of Education with reference to the purchase of bonds for the account of the state permanent school fund by adding to said chapter immediately after Article 2740, a new article to be known as Article 2740-A and validating the purchase of bonds by the State Board of Education purchased on deferred payments of the purchase price as of the time of the respective payments on the purchase price of such bonds, and prescribing certain duties of the State Board of Education, the State Treasurer and the State Comptroller of Public Accounts with reference to allowing credits on certain interest

coupons attached to said bonds by reason of deferred payments of the purchase price thereof, and limiting the validation of said purchase contract to all bonds purchased on deferred credit since January 1, 1921, providing for adjustment and return of moneys advanced by the State as compensation for accrued interest on said bonds prior to the date of said purchase and declaring an emergency."

Read first time and referred to Committee on Educational Affairs.

By Senator Holbrook:

S. B. No. 314, A bill to be entitled "An Act authorizing the Gulf, Colorado and Santa Fe Railway Company to purchase, own and operate the railroad and other property, with its franchise and appurtenances, now or hereafter owned by Galveston and Western Railway Company in the city of Galveston, State of Texas, west of the east line of Thirty-eighth Street, or any part or parts thereof, including all ordinances of the city of Galveston now existing or hereafter passed relating to rights or franchising in the streets of said city west of the east line of said Thirty-eighth Street, and declaring an emergency."

Read first time and referred to Committee on Internal Improvement.

(Affidavits covering publication of notice to apply to the Legislature were filed with the bill.)

By Senator Davis:

S. B. No. 315, A bill to be entitled "An Act to amend Article 3086, and 3095 of Chapter 10, Title 49, of the Revised Statutes of Texas, relating to primary elections; to prescribe the form of the ballot to be used at such elections, the manner of counting the votes and declaring the result of such election, and to appeal Article 3091 and 3092 of said title and chapter."

Read first time and referred to Committee on Privileges and Elections.

By Senator Rogers:

S. B. No. 316, A bill to be entitled "An Act making an appropriation of the unexpended balance of the American Legion Memorial Sanatorium appropriation; and appropriating for said sanatorium the amount received from the American Legion and Be-

nevolent War Risk Society with authority to use said amount for the sanatorium and to redeem any pledges or obligations to the donors of same in connection with said sanatorium; and declaring an emergency."

Read first time and referred to Committee on Finance.

By Senator Rogers:

S. B. No. 317, A bill to be entitled "An Act amending Article 1017, Chapter 11, Title 22, of the Revised Civil Statutes of 1911, so as to provide that the provisions of the chapter to be cumulative, and declaring an emergency."

Read first time and referred to Committee on Town and City Corporations.

By Senator Bledsoe:

S. B. No. 318, A bill to be entitled "An Act to provide for the refund by counties, cities, towns and other political subdivisions of the state or county of property ad valorem taxes paid when unlawfully levied or collected; providing that suits may be brought for such taxes, and providing for a period of limitation, and abolishing certain defenses; and providing that scripts or other evidences of such reimbursement shall be acceptable in payment of taxes then or thereafter due."

Read first time and referred to Committee on Civil Jurisprudence.

By Senator Ridgeway:

S. B. No. 319, A bill to be entitled "An Act to amend Article 4631, Chapter 4, Title 68, of the Revised Civil Statutes of Texas of 1911, providing the cases in which divorces may be granted, and repealing all laws in conflict therewith."

Read first time and referred to Committee on Civil Jurisprudence.

By Senator Ridgeway:

S. B. No. 320, A bill to be entitled "An Act providing for the compensation to the Texas Cherokee Indians and their associate bands for certain lands in East Texas ceded them by the Republic of Texas."

Read first time and referred to Committee on Public Lands and Land Office.

By Senator McMillin:

S. B. No. 321, A bill to be entitled "An Act providing for the committing of feeble-minded persons to the State

Colony for the Feeble-minded; giving to the county and district courts jurisdiction to hear and determine the status of feeble-minded persons, and commit them to such colony, to be known as 'Court for the Feeble-minded' when so sitting; providing the procedure in such cases; defining the powers and duties of the county attorney and other officers; defining the powers and duties of such colony and its management and superintendent in relation to the custody and the preservation and regaining thereof of such persons committed or admitted thereto; prescribing the duties of peace officers in regard thereto; making such persons wards of the State; making it a felony to entice, remove, abduct or kidnap a patient from such colony, or to assist such to escape, or to conceal a patient who has escaped, or been enticed, removed, abducted or kidnapped therefrom, and prescribing a penalty therefor; and declaring an emergency."

Read first time and referred to Committee on State Institutions and Departments.

By Senator Thomas:

S. B. No. 322, A bill to be entitled "An Act providing that it shall be unlawful for the owner, keeper or person in control of any dog accustomed to run, worry or kill goats and sheep, knowing such dog to be so accustomed to run, worry or kill goats or sheep, to permit such dog to run at large; providing penalties and declaring an emergency."

Read first time and referred to Committee on Criminal Jurisprudence.

By Senators Cousins and Thomas:

S. B. No. 323, A bill to be entitled "An Act to provide for refunding certain bonds of the State of Texas now owned by the Permanent School Fund; providing for the execution of new bonds in lieu thereof; providing method of exchange of said bonds; making appropriations to pay accrued interest and to pay expense of lithographing bonds; and declaring an emergency."

Read first time and referred to Committee on Educational Affairs.

By Senator Clark:

S. B. No. 324, A bill to be entitled "An Act amending Article 993, Penal Code, so as to make it unlawful for any person, corporation or company engaged in the manufacture or sale of electricity, water or gas, or officer or employee thereof, to knowingly permit

or cause any light, water or gas meter to register greater than the true amount of light, electricity, water or gas sold or furnished any customer; and declaring an emergency."

Read first time and referred to Committee on Civil Jurisprudence.

By Senator Holbrook:

S. B. No. 325, A bill to be entitled "An Act amending Articles 10, 15, 27, 31, 32, 39, 40, 50, 53 and 63 of an Act passed at the First Called Session of the Thirty-sixth Legislature of the State of Texas, entitled An Act creating the office of Game, Fish and Oyster Commissioner, providing for the protection of fish and other marine life, being S. B. No. 107, Chapter 73, of the General Laws of the said First Called Session, changing certain penalties therein, making necessary changes in regulations, repealing all laws in conflict herewith, and declaring an emergency."

Read first time and referred to Committee on State Affairs.

By Senator Davis:

S. B. No. 326, A bill to be entitled "An Act governing the issuance of teachers' certificates in the teachers' training course of the Dallas public schools."

Read first time and referred to Committee on Educational Affairs.

By Senator Parr:

S. B. No. 327, A bill to be entitled "An Act to relieve various schools of the State by validating certain school districts, and where such districts have undertaken to provide for the issuance of schoolhouse bonds, or the levying of special taxes for any lawful school purposes, by proceedings not otherwise invalid; validating such bond issues and taxes; and declaring an emergency."

Read first time and referred to Committee on Civil Jurisprudence.

#### Simple Resolution No. 60.

By Senator Strong:

Whereas, It is proposed by various bills introduced and now pending in the Senate to place under the jurisdiction, supervision and control of the Railroad Commission of Texas certain public utilities, and to authorize and empower the Railroad Commission to make and fix rates, rules and regulations therefor; and

Whereas, It is necessary and proper for the Senate to be advised as to whether or not the Railroad Commission has sufficient time and force of employees to perform adequately the additional duties proposed to be placed upon it; and, therefore, be it

Resolved by the Senate of Texas that the Railroad Commission be and is hereby requested and directed to immediately furnish this Senate with a full and complete detailed statement of the name and postoffice address of each employee now engaged by it, including all employees of the oil and gas department or any other department of Government they supervise, the salary paid and the duties performed by each, together with full statement of expenses incurred and allowed by the Commission for each of said employees for the period of the past two years.

The resolution was read.

Senator Baugh moved to refer the resolution to the Committee on State Affairs.

Yeas and nays were demanded, and the motion to refer was lost by the following vote:

Yeas—5.

Baugh.	Stuart.
Bledsoe.	Wirtz.
Rice.	

Nays—21.

Bowers.	Parr.
Burkett.	Pollard.
Clark.	Ridgeway.
Cousins.	Rogers.
Davis.	Strong.
Doyle.	Turner.
Fairchild.	Watts.
Holbrook.	Witt.
Lewis.	Wood.
McMillin.	Woods.
Murphy.	

Absent.

Bailey.	Thomas.
Darwin.	

Absent—Excused.

Dudley.	Floyd.
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The resolution was then adopted.

#### Simple Resolution No. 61.

By Senator Pollard:

Whereas, It has been a custom to make, mount, and frame the photographs of members and officers of the Senate; therefore, be it

Resolved, That the Lieutenant Governor be authorized to appoint a committee of three Senators to arrange a price to be paid for such work, and report same to the Senate for ratification.

The resolution was read and adopted.

#### S. B. No. 54—Set as Special Order.

On motion of Senator Witt, by unanimous consent, the Senate suspended the regular order, took up, and set S. B. No. 54 as a special order for next Monday, after the morning call.

(Senator Wood in the Chair.)

#### S. B. No. 107 on Engrossment.

The Chair laid before the Senate, as pending business, on its passage to engrossment, S. B. No. 107, relating to the separation of the departments of insurance and banking, and fixing the salaries, etc., with substitute by Senator Bowers for the amendment by Senator McMillin pending.

Question: Shall the substitute by Senator Bowers be adopted?

Yeas and nays were demanded, and the substitute was adopted by the following vote:

Yeas—20.

Bailey.	Ridgeway.
Bledsoe.	Rogers.
Bowers.	Strong.
Burkett.	Stuart.
Davis.	Thomas.
Doyle.	Turner.
Holbrook.	Watts.
Murphy.	Wirtz.
Parr.	Witt.
Pollard.	Wood.

Nays—8.

Baugh.	Lewis.
Clark.	McMillin.
Cousins.	Rice.
Darwin.	Woods.

Absent—Excused.

Floyd.

(Pair Recorded).

Senator Fairchild (present), who would vote nay; with Senator Dudley (absent), who would vote yea.

The amendment as substituted was adopted.

Senator McMillin offered the following amendment to the bill:

Amend S. B. No. 107, by striking out the words and figures five thousand (\$5,000) on line 18, page 3, and insert in lieu thereof the words and figures four thousand (\$4,000.)

Senator Strong offered the following substitute for the amendment:

I move to amend S. B. No. 107, page 3, line 13, by striking out words and figures \$5,000 and insert in lieu thereof words and figures \$3,000.

Yeas and nays were demanded, and the substitute was lost by the following vote:

Yeas—10.

Baugh.	Doyle.
Burkett.	McMillin.
Clark.	Pollard.
Cousins.	Rice.
Darwin.	Strong.

Nays—17.

Bledsoe.	Stuart.
Bowers.	Thomas.
Davis.	Turner.
Holbrook.	Watts.
Lewis.	Wirtz.
Murphy.	Witt.
Parr.	Wood.
Ridgeway.	Woods.
Rogers.	

Absent.

Bailey.

Absent—Excused.

Floyd.

(Pair Recorded.)

Senator Fairchild (present), who would vote yea; with Senator Dudley (absent), who would vote nay.

Question recurring on the amendment by Senator McMillin, yeas and nays were demanded, and the amendment was adopted by the following vote:

Yeas—21.

Bailey.	Rice.
Baugh.	Ridgeway.
Bowers.	Rogers.
Darwin.	Stuart.
Davis.	Thomas.
Doyle.	Turner.
Dudley.	Watts.
Fairchild.	Wirtz.
Holbrook.	Witt.
McMillin.	Wood.
Murphy.	Woods.
Parr.	

## Nays—5.

Burkett.  
Clark.  
Cousins.

Pollard.  
Strong.

Present—Not Voting.

Bledsoe.

Lewis.

Absent—Excused.

Floyd.

(Pair Recorded).

Senator Fairchild (present), who would vote nay; with Senator Dudley (absent), who would vote yea.

Senator McMillin offered the following amendment to the bill:

Amend S. B. No. 107, by striking out the words and figures "five thousand (\$5,000) on line 9, page 4, and insert in lieu thereof, the words and figures "four thousand (\$4,000)"

The amendment was adopted.

Senator McMillin offered the following amendment to the bill:

Amend S. B. No. 107 by striking out the words and figures "five thousand (\$5,000)" on line 26, page 4, of the bill, and insert in lieu thereof the words and figures, "four thousand (\$4,000)."

The amendment was adopted.

Senator McMillin offered the following amendment to the bill:

Amend Senate Bill No. 107 by striking out the words and figures "three thousand (\$3,000)" on lines 28 and 29, page 4; and the words and figures "thirty-four hundred (\$3,400)," on lines 29 and 30; and the words and figures "thirty-eight hundred (\$3,800)" on line 31, page 4; the words and figures "forty-two hundred (\$4,200)," on line 32, page 41 and the words and figures "forty-six hundred (\$4,600)" line 1, page 5 of the bill; and the words and figures "five thousand (\$5,000)" line 3, page 5 of the bill; and insert in lieu thereof, in words and figures, respectively, the following:

"Twenty-four hundred (\$2,400)."

"Twenty-seven hundred (\$2,700)."

"Three thousand (\$3,000)."

"Thirty-three hundred (\$3,300)."

"Thirty-six hundred (\$3,600)."

"Thirty-nine hundred (\$3,900)."

WOODS.

McMILLIN.

Yeas and nays were demanded, and the amendment was lost by the following vote:

## Yeas—13.

Baugh.  
Burkett.  
Darwin.  
Doyle.  
Fairchild.  
Lewis.  
McMillin.

Murphy.  
Pollard.  
Rice.  
Strong.  
Stuart.  
Woods.

## Nays—14.

Bailey.  
Bledsoe.  
Bowers.  
Clark.  
Davis.  
Holbrook.  
Parr.

Ridgeway.  
Rogers.  
Thomas.  
Turner.  
Wirtz.  
Witt.  
Wood.

Absent.

Cousins.

Watts.

Absent—Excused.

Dudley.

Floyd.

Question recurring on the engrossment of S. B. No. 107, yeas and nays were demanded and the bill was passed to engrossment by the following vote:

## Yeas—20.

Bailey.  
Baugh.  
Bledsoe.  
Bowers.  
Cousins.  
Davis.  
Holbrook.  
Murphy.  
Parr.  
Pollard.

Ridgeway.  
Rogers.  
Strong.  
Stuart.  
Thomas.  
Turner.  
Watts.  
Wirtz.  
Witt.  
Wood.

## Nays—9.

Burkett.  
Clark.  
Darwin.  
Doyle.  
Fairchild.

Lewis.  
McMillin.  
Rice.  
Woods.

Absent—Excused.

Dudley.

Floyd.

### S. B. No. 107—Motion to Suspend Constitutional Rule.

Senator Holbrook moved that the constitutional rule requiring bills to be read on three several days be suspended and that S. B. No. 107 be put on its third reading and final passage.

The motion was lost by the following vote, not receiving the necessary four-fifths majority:

## Yeas—16.

Bailey.	Rogers.
Bledsoe.	Strong.
Bowers.	Thomas.
Cousins.	Turner.
Davis.	Watts.
Holbrook.	Wirtz.
Parr.	Witt.
Ridgeway.	Wood.

## Nays—13.

Baugh.	McMillin.
Burkett.	Murphy.
Clark.	Pollard.
Darwin.	Rice.
Doyle.	Stuart.
Fairchild.	Woods.
Lewis.	

## Absent—Excused.

Dudley.	Floyd.
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**S. B. No. 10—Motion to Reconsider.**

Senator Pollard moved to reconsider the vote by which the Senate refused to pass S. B. No. 10 to engrossment, and spread the motion to reconsider on the Journal.

Senator Bailey moved to table the motion to reconsider.

Yeas and nays were demanded and the motion to table prevailed by the following vote:

## Yeas—16.

Bailey.	Lewis.
Baugh.	McMillin.
Bledsoe.	Murphy.
Bowers.	Parr.
Clark.	Rice.
Darwin.	Watts.
Doyle.	Wirtz.
Holbrook.	Woods.

## Nays—13.

Burkett.	Strong.
Cousins.	Stuart.
Davis.	Thomas.
Fairchild.	Turner.
Pollard.	Witt.
Ridgeway.	Wood.
Rogers.	

## Absent—Excused.

Dudley.	Floyd.
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**S. B. No. 6 on Engrossment.**

Senator Murphy called up S. B. No. 6, prescribing penalties for theft of property of more than \$50.00, which was read the second time on January 18, and laid on the table subject to call.

The Chair laid the bill before the Senate, together with the committee report carrying the following committee substitute:

C. S. S. B. No. 6, A bill to be entitled "An Act to amend Article 1340 of the Penal Code of the State of Texas, 1911, by providing that the punishment for the theft of property of the value of \$50 or more shall be by confinement in the county jail not more than twelve months or by confinement in the penitentiary for a period of not less than one year or more than ten years.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Article 1340 of the Penal Code of the State of Texas, 1911, be amended so as to hereinafter read as follows:

Article 1340. The theft of property of the value of \$50.00 or over shall be punished by confinement in the county jail for not more than twelve months or by confinement in the penitentiary for a period of not less than one year or more than ten years.

Question: Shall the committee substitute be adopted?

**Recess.**

On motion of Senator Clark, the Senate at 12:05 p. m. recessed until 2:30 p. m. today.

**Afternoon Session.**

The Senate met at 2:30 p. m. and was called to order by Lieutenant Governor T. W. Davidson.

**S. B. No. 6 on Engrossment.**

The Senate resumed consideration of S. B. No. 6, on its passage to engrossment, with the committee report carrying a substitute for the bill pending.

Senator Bledsoe moved to adopt the minority report which recommended that the bill do not pass.

Yeas and nays were demanded, and the motion to adopt the minority report was lost by the following vote:

## Yeas—12.

Baugh.	McMillin.
Bledsoe.	Rice.
Bowers.	Stuart.
Clark.	Thomas.
Davis.	Turner.
Lewis.	Watts.

## Nays—15.

Bailey.	Pollard.
Burkett.	Ridgeway.
Darwin.	Rogers.
Doyle.	Strong.
Fairchild.	Witt.
Holbrook.	Wood.
Murphy.	Woods.
Parr.	

Absent.

Cousins. Wirtz.

Absent—Excused.

Dudley. Floyd.

Question recurring on the adoption of the majority committee report, carrying a substitute bill, yeas and nays were demanded, and the motion prevailed by the following vote:

## Yeas—16.

Bailey.	Parr.
Burkett.	Pollard.
Cousins.	Ridgeway.
Darwin.	Rogers.
Doyle.	Strong.
Fairchild.	Wirtz.
Holbrook.	Witt.
Murphy.	Woods.

## Nays—12.

Baugh.	McMillin.
Bledsoe.	Rice.
Bowers.	Thomas.
Clark.	Turner.
Davis.	Watts.
Lewis.	Wood.

Absent.

Stuart.

Absent—Excused.

Dudley. Floyd.

Question then recurred on the engrossment of the bill. Yeas and nays were demanded, and S. B. No. 6 failed to pass to engrossment by the following vote:

## Yeas—13.

Bailey.	Pollard.
Burkett.	Ridgeway.
Cousins.	Rogers.
Darwin.	Strong.
Fairchild.	Witt.
Murphy.	Woods.
Parr.	

## Nays—15.

Baugh.	Rice.
Bledsoe.	Stuart.
Bowers.	Thomas.
Clark.	Turner.
Davis.	Watts.
Holbrook.	Wirtz.
Lewis.	Wood.
McMillin.	

Absent.

Doyle.

Absent—Excused.

Dudley.

Floyd.

## S. B. No. 158 on Third Reading.

The Chair laid before the Senate as regular order, on its third reading and final passage,

S. B. No. 158, A bill to be entitled "An Act to amend Chapter Thirty-three of the General Laws of the Third Called Session of the Thirty-sixth Legislature of 1920, denominated 'An Act to create the Ninety-first Judicial District; fixing its jurisdiction and time of holding court therein; providing for the appointment by the Governor of a judge for said Ninety-first District; providing that the District Clerk and County Attorney of Eastland county each shall be officers of said Ninety-first District Court and fixing their compensation for services rendered therein; providing for transfer of cases from and to the Ninety-first Judicial District Court and the Eighty-eighth Judicial District Court from one court to the other, requiring notice of such transfer of cases in certain instances to be given; providing that suits shall be alternately filed in said Ninety-first Judicial District Court of Eastland County, and the Eighty-eighth Judicial District Court of Eastland County; providing that no grand jury in said Ninety-first District Court of Eastland County shall be organized unless it is specially ordered by the judge of the Ninety-first District, providing that from and after the first day of January of the year 1925, said

Ninety-first Judicial District Court shall cease to exist; declaring that an emergency exists requiring the immediate passage of this Act'."

The bill was read third time and passed.

#### **S. B. No. 204 on Third Reading.**

The Chair laid before the Senate as regular order on its third reading and final passage.

S. B. No. 204, A bill to be entitled "An Act creating the El Carre Independent School District, in Jim Wells County, Texas; defining its boundaries, providing a board of three trustees, and for the election of their successors, investing said district and its trustees with full powers, privileges, and duties as provided by general law for school districts, incorporated for free school purposes only; investing the trustees with the control of the public schools in said district, authorizing the levy and collection of taxes for certain purposes, authorizing the commissioners' court of said county to levy, and the assessor to assess, and the collector to collect, under certain conditions, such taxes as the trustees of said school district shall request, and declaring an emergency."

The bill was read third time and passed.

#### **S. B. No. 205 on Third Reading.**

The Chair laid before the Senate as regular order, on its third reading and final passage.

S. B. No. 205, A bill to be entitled "An Act creating the Sheerin Independent School District in Jim Wells County, Texas; defining its boundaries, providing a board of three trustees, and for the election of their successors, investing said district and its trustees with full powers, privileges, and duties as provided by general law for school districts, incorporated for free school purposes only; investing the trustees with the control of the public schools in said district, authorizing the levy and collection of taxes for certain purposes, authorizing the commissioners' court of said county to levy, and the collector to collect, under certain conditions, such taxes as the trustees of said school district shall request, and declaring an emergency."

The bill was read third time and passed.

#### **S. B. No. 206 on Third Reading.**

The Chair laid before the Senate as regular order on its third reading and final passage.

S. B. No. 206, A bill to be entitled "An Act creating the Dilworth Independent School District in Jim Wells County, Texas; defining its boundaries, providing a board of trustees, and for the election of their successors, investing said district and its trustees with full powers, privileges, and duties as provided by general law for school districts incorporated for free school purposes only; investing the trustees with the control of the public schools in said district, authorizing the levy and collection of taxes for certain purposes, authorizing the commissioners' court of said county to levy, and the collector to collect, and the assessor to assess, under certain conditions, such taxes as the trustees of said school district shall request, and declaring an emergency."

The bill was read third time and passed.

#### **H. B. No. 293 on Third Reading.**

The Chair laid before the Senate, as regular order, on its third reading and final passage.

H. B. No. 293, A bill to be entitled "An Act to create the Talpa Independent School District in Coleman County, Texas, including the present Talpa District of said county, providing a board of trustees therefor, vesting said independent school district and board of trustees with all the rights, powers, privileges and duties conferred upon independent school districts incorporated under the General Laws of Texas; providing that the board of trustees of the present Talpa District shall continue to act as such until their successors are elected in accordance with the General Laws of Texas, and declaring an emergency."

The bill was read third time and passed by the following vote:

Yeas—29.

Bailey.	Darwin.
Baugh.	Davis.
Bledsoe.	Doyle.
Bowers.	Fairchild.
Burkett.	Holbrook.
Clark.	Lewis.
Cousins.	McMillin.



Murphy.	Thomas.
Parr.	Turner.
Pollard.	Watts.
Rice.	Wirtz.
Ridgeway.	Witt.
Rogers.	Wood.
Strong.	Woods.
Stuart.	
Absent—Excused.	
Dudley.	Floyd.

#### S. B. No. 42 on Second Reading.

The Chair laid before the Senate, as regular order, on its second reading.

S. B. No. 42, A bill to be entitled "An Act requiring hotel keepers to post in each room a card or sign stating the price per day for such room; prohibiting any advance in prices within 30 days; compelling hotels to furnish guests with tickets showing prices of rooms; fixing penalty, and declaring an emergency."

The bill was read second time and it was passed to engrossment.

#### S. B. No. 42 on Third Reading.

On motion of Senator McMillin, the constitutional rule requiring bills to be read on three several days in each house was suspended, and S. B. No. 42 was put upon its third reading and final passage by the following vote:

Yeas—29.

Bailey.	Parr.
Baugh.	Pollard.
Bledsoe.	Rice.
Bowers.	Ridgeway.
Burkett.	Rogers.
Clark.	Strong.
Cousins.	Stuart.
Darwin.	Thomas.
Davis.	Turner.
Doyle.	Watts.
Fairchild.	Wirtz.
Holbrook.	Witt.
Lewis.	Wood.
McMillin.	Woods.
Murphy.	

Absent—Excused.

Dudley.	Floyd.
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The Chair then laid S. B. No. 42 before the Senate on its third reading and final passage.

The bill was read third time and passed.

#### S. B. No. 101 on Second Reading.

On motion of Senator Parr by unanimous consent, the regular order was suspended, and the Senate took up out of its regular order,

S. B. No. 101, A bill to be entitled "An Act amending Section 31-a of an Act passed at the First Called Session of the Thirty-sixth Legislature of the State of Texas, entitled 'An Act to amend Sections 14, 17, 19, 21, 22, 25, 28, 31, 35, and 40, Chapter 157 of the General Laws of the Thirty-sixth Legislature passed at the Regular Session thereof, being an Act to preserve, propagate, distribute and protect the wild game, wild birds, wild fowl of the State of Texas, to provide adequate penalties for the unlawful taking, slaughter, storage, sale, purchase or shipment thereof, to provide for the appointment of deputy game commissioners and fixing their salaries; to define the duties and powers of the Game, Fish and Oyster Commissioner and his deputies; to fix the venue of prosecution under this Act; to provide for the issuance of hunting license and prescribe penalties for hunting without a license; to declare that certain moneys shall belong to special game fund of this state and the disposition to be made of said moneys, and to repeal all laws in conflict herewith, and declaring an emergency, correcting certain grammatical and typographical errors in said sections and by adding thereto Sections 31-a, and 31-b; providing a closed season on wild female deer and spotted fawns and fixing a limit of three buck deer to be killed during one season by any one person and fixing penalties therefor; providing the manner of transporting lawfully killed deer and fixing penalties for unlawful shipment of deer; and declaring an emergency;' and declaring an emergency."

The Chair laid the bill before the Senate, it was read second time.

Senator Parr moved to adopt the committee report carrying the following amendment:

To strike out the words "State of Texas" in line 20, page 2 of the original Bill and insert in lieu thereof the following: "Counties of San Patricio, Nueces, Kleberg, Kennedy, Willacy, Cameron, Hidalgo, Starr,

Zapata, Webb, La Salle, Dimmitt, McMullen, Jim Hogg, Duval, Brooks, and Jim Wells."

Senator Ridgeway moved to lay the bill on the table subject to call and the motion was lost.

The committee report was then adopted.

Senator Parr offered the following amendment to the bill:

Amend the committee amendment S. B. 101, line 13, page 4 by striking out the figures 20 and inserting in lieu thereof, the figures 29.

The amendment was adopted and S. B. No. 101 was passed to engrossment.

#### S. B. No. 102 on Second Reading.

The Chair laid before the Senate, as regular order, on its second reading,

S. B. No. 102, A bill to be entitled "An Act amending Sections No. 6 and No. 7 of an Act passed at the Regular Session of the Thirty-sixth Legislature of the State of Texas, entitled, 'An Act relating to the protection of wild game, birds, etc., and requiring a license for the purpose of hunting.' Being H. B. No. 457, Chapter No. 157 of said Regular Session Laws, and repeal all laws in conflict herewith, and declaring an emergency."

On motion of Senator Parr the bill was laid on the table subject to call.

#### S. B. No. 25 on Second Reading.

The Chair laid before the Senate as regular order on its second reading,

S. B. No. 25, A bill to be entitled "An Act to amend Article 1428, Title 17, Chapter 18, Penal Code of Texas, relating to obtaining board or lodging or thing of value under false pretenses; drawing or delivering any check, draft or order to defraud; fixing penalty, providing that certain facts that shall be prima facie evidence; making the law cumulative and declaring an emergency."

The bill was read second time.

Senator Lewis offered the following amendment to the bill:

Amend S. B. No. 25 by striking out in line 32, page 1 of the bill and line 1, page 2, the words "or by imprisonment in the county jail not exceeding one month, or by both such fine and imprisonment."

The amendment was lost.

Senator Doyle offered the following amendment to the bill:

Amend S. B. No. 25, page 1, line 20, by erasing these words: "by means of any trick or deception," occurring in line 21.

The amendment was lost.

Yeas and nays were demanded, and S. B. No. 25 failed on passage to engrossment by the following vote:

Yeas—5.

Fairchild.	Stuart.
Pollard.	Turner.
Ridgeway.	

Nays—20.

Bailey.	McMillin.
Baugh.	Murphy.
Bowers.	Rice.
Burkett.	Strong.
Cousins.	Thomas.
Darwin.	Watts.
Davis.	Wirtz.
Doyle.	Witt.
Holbrook.	Wood.
Lewis.	Woods.

Present—Not Voting.

Rogers.	Absent.
Bledsoe.	Parr.
Clark.	

Absent—Excused.

Dudley.	Floyd.
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#### Committee to Arrange for Photos.

The Chair announced the appointment of the following committee to arrange for Senatorial photo:

Senators Pollard, Rogers and Darwin.

(Senator McMillin in the Chair)

#### S. B. No. 33 on Second Reading.

The Chair laid before the Senate as regular order, on its second reading,

S. B. No. 33, A bill to be entitled "An Act relating to hotels, apartment hotels and boarding houses, protecting them from fraud, limiting their liability and declaring an emergency."

The bill was read second time.

Yeas and nays were demanded, and S. B. No. 33 was passed to engrossment by the following vote:

## Yeas—18.

Bowers.	Pollard.
Burkett.	Rice.
Clark.	Ridgeway.
Cousins.	Rogers.
Darwin.	Strong.
Fairchild.	Stuart.
Holbrook.	Thomas.
McMillin.	Turner.
Parr.	Witt.

## Nays—9.

Bailey.	Murphy.
Baugh.	Watts.
Bledsoe.	Wirtz.
Davis.	Wood.
Doyle.	

## Absent.

Lewis.	Woods.
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## Absent—Excused.

Dudley.	Floyd.
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**S. B. No. 57 on Second Reading.**

The Chair laid before the Senate as regular order, on its second reading.

S. B. No. 57, A bill to be entitled "An Act to amend Chapter 15 of an Act of the Thirty-sixth Legislature, passed at its Regular Session, which Act was approved February 19, 1919, and was known as Chapter 15 of the laws of said Legislature, so as to provide that said Act shall not apply to policies of insurance covering upon personal property and to make said Act as amended read as hereinafter set out and to repeal all laws and parts of laws in conflict herewith, and declaring an emergency."

The bill was read second time.

Senator Witt moved to adopt the majority committee report which recommended that the bill do pass.

Senator Wood moved to adopt the minority report which recommended that the bill do not pass.

(Lieutenant Governor Davidson in the Chair).

Senator Pollard moved to lay the bill on the table subject to call, and the motion was lost.

Question recurring on the motion to adopt the minority report, yeas and nays were demanded, and the motion prevailed by the following vote:

## Yeas—19.

Bailey.	Murphy.
Baugh.	Pollard.
Bledsoe.	Rice.
Bowers.	Ridgeway.
Darwin.	Strong.
Doyle.	Thomas.
Fairchild.	Wirtz.
Holbrook.	Wood.
Lewis.	Woods.
McMillin.	

## Nays—9.

Burkett.	Stuart.
Clark.	Turner.
Cousins.	Watts.
Davis.	Witt.
Parr.	

## Absent.

Rogers.	Absent—Excused.
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Dudley.	Floyd.
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**S. B. No. 73 on Second Reading.**

The Chair laid before the Senate as regular order, on second reading.

S. B. No. 73, A bill to be entitled "An Act to replace Chapter 5 and all Sections thereof as passed by the Fourth Called Session of the Thirty-sixth Legislature."

On motion of Senator Burkett, the bill was laid on the table subject to call.

**Addition to Committee.**

By Senator Thomas:

I move that Senator Bledsoe's name be added to the Committee on nominations by the Governor.

The motion carried.

**S. B. No. 298 on Second Reading.**

On motion of Senator Parr, by unanimous consent, the regular order was suspended, and the Senate took up out of its regular order,

S. B. No. 298, A bill to be entitled "An Act creating, establishing, and incorporating Carlson Common school District No. 16 in Hidalgo county, Texas, containing a portion of the territory in Hidalgo county, Texas, heretofore embraced in Panchita Common School District No. 2, describing the metes and bounds thereof, and declaring an emergency."

The Chair laid the bill before the Senate, it was read second time, the committee report that the bill be not printed was adopted, and the bill was passed to engrossment.

#### S. B. No. 298 on Third Reading.

On motion of Senator Parr, the constitutional rule requiring bills to be read on three several days in each House was suspended, and S. B. No. 298 was put upon its third reading and final passage by the following vote:

Yeas—29.

Bailey.	Parr.
Baugh.	Pollard.
Bledsoe.	Rice.
Bowers.	Ridgeway.
Burkett.	Rogers.
Clark.	Strong.
Cousins.	Stuart.
Darwin.	Thomas.
Davis.	Turner.
Doyle.	Watts.
Fairchild.	Wirtz.
Holbrook.	Witt.
Lewis.	Wood.
McMillin.	Woods.
Murphy.	

Absent—Excused.

Dudley. Floyd.

The Chair then laid S. B. No. 298 before the Senate on its third reading and final passage.

The bill was read third time and passed by the following vote:

Yeas—29.

Bailey.	Parr.
Baugh.	Pollard.
Bledsoe.	Rice.
Bledsoe.	Ridgeway.
Burkett.	Rogers.
Clark.	Strong.
Cousins.	Stuart.
Darwin.	Thomas.
Davis.	Turner.
Doyle.	Watts.
Fairchild.	Wirtz.
Holbrook.	Witt.
Lewis.	Wood.
McMillin.	Woods.
Murphy.	

Absent—Excused.

Dudley. Floyd.

#### S. B. No. 88 on Second Reading.

The Chair laid before the Senate as regular order, on its second reading,

S. B. No. 88, A bill to be entitled "An Act to prohibit hiring, employing or commissioning by any State or county officer, or State Adjutant General any person who is in the employ of any person, firm, or corporation whose salary or any portion thereof, is paid by such person, firm or corporation, when such person, firm or corporation is interested in any dispute or disagreement with his, her, its or their employees."

The bill was read second time.

Question: Shall the bill be passed to engrossment?

#### Message from the House.

Hall of the House of Representatives,  
Austin, Texas, Feb. 12, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

H. B. No. 295, A bill to be entitled "An Act to amend Section 72 of Chapter 87 of the Acts of the Regular Session of the Thirty-fifth Legislature, providing for the election of directors of water improvement districts, and that in certain specified districts such directors shall be appointed by the county commissioners' court, such districts being those which contain not to exceed twelve thousand acres of land, and in which sixty outside of the district, but who live within the county in which such district is located; providing time of appointment of such directors, and that petitions may be filed with said court by the land owners asking for appointment of certain persons as directors, and declaring an emergency."

H. B. No. 428, A bill to be entitled "An Act to create the Camp Wood Independent School District in Real, Edwards and Uvalde counties, Texas, providing for a board of trustees therefor, vesting said independent school district and board of trustees with all the rights, powers, privileges and duties conferred upon independent school districts incorporated under the General Laws of Texas; providing that the board of trustees of the existing school in said district shall continue to act as such until their successors

are elected in accordance with the General Laws of Texas, and declaring an emergency."

H. B. No. 313 amended by striking out the enacting clause.

"An Act providing for the supervision and regulation of the transportation of persons and property for compensation and hire over any public highway by motor propelled vehicles; defining auto transportation companies as common carriers and providing for the supervision and regulation thereof by the Railroad Commission of Texas; providing for the issuance of certificates of convenience and necessity for the operation of auto transportation companies; defining the duties and powers of the Railroad Commission of Texas; authorizing the Railroad Commission of Texas to make rules and regulations for governing auto transportation companies, to fix rates, supervise service, make investigation of books, accounts and the doing of all other matters and things pertaining to auto transportation that may be necessary in the matter of regulation and control; authorizing the Railroad Commission of Texas to punish for contempt for the violation of its rules and regulations; providing a penalty for the violation of the law and the rules and regulations of the Railroad Commission of Texas; providing for the collection of an annual fee to defray the cost of administering and enforcing this law; providing for additional office space and the employment of the necessary employees to administer and enforce this law and the payment of such employees and all other expenses out of the funds derived from fees and fines and providing for payment in event of deficit, and declaring an emergency."

A motion to reconsider was tabled.

House has concurred in Senate amendments to H. B. No. 103.

H. B. No. 45. A bill to be entitled "An Act to prevent the selling of bass, white perch, crappie, channel or other cat fish in the counties of Burnet, Llano, San Saba, Brown, McCulloch, Edwards, Coleman, Concho, Menard, Blanco, Gillespie, Kimble, Sutton, Kinney, Uvalde, Real, Kerr, Val Verde, Bandera, Kendall, Comal, Reeves, Ward, Loving, and Pecos, State of Texas; prohibiting the use of any seine, net, trap or other device, for taking or catching fish other

than a minnow seine which shall not be more than twenty feet in length; limiting the size of fish which may be taken with a minnow seine; making it unlawful to violate any of the provisions of this law, and providing penalties for the violations thereof; providing that the district judge of the judicial districts in which these counties are situated shall give a special charge upon this law to the grand juries of said counties; and declaring an emergency."

H. B. No. 278, A bill to be entitled "An Act to require the payment of interest on certain deposits required from water, light, gas and telephone companies within this State; requiring the making of annual reports; providing penalties for violations hereof, and declaring an emergency."

H. B. No. 328, A bill to be entitled "An Act to repeal Article 7383a as enacted by the Thirty-sixth Legislature, relating to occupation taxes based upon gross receipts and adding in lieu thereof a new Article 7383a providing an occupation tax on sulphur produced in the State of Texas by individuals, companies, corporations and associations; providing that in the event of either or a part of article be held unconstitutional by the courts it shall not invalidate the remainder of said article, and declaring an emergency."

The following committee has been appointed on part of the House to inspect the proposed sites for the Penitentiary System: Teer, Patterson, Lackey, Pate and Satterwhite.

H. B. No. 20, A bill to be entitled "An Act on the subject of compulsory education, amending Articles 2779a and 2779b of Title 48, Revised Civil Statutes of Texas, requiring all children within the scholastic age to attend the public school in the district to which such student may be transferred, for the full period for which the school is conducted; making it the duty of the parent, guardian or person having control, charge or custody of any such child, or children, to send the same to said school for the full period for which the same is conducted and a failure to do so, is punishable as provided in the Penal Code, each day shall constitute a separate offense, defining the classes of children who are exempt from the requirements of the Act, and by adding two sections providing the benefit of free text books for such

pupils may be taught in private and parochial schools or by the parent or guardian, or private tutor, and also providing for an examination by the county superintendent or superintendent of an independent school district, or town or city of such child or children taught other than in public schools and providing, that if found deficient on such examination, such superintendent may require the attendance of such child or children upon the public schools; and repealing Article 2779c, Title 48 of the Revised Civil Statutes."

Was amended by striking out the enacting clause, and a motion to reconsider was tabled.

Respectfully submitted.

C. L. PHINNEY,

Chief Clerk, House of Representatives.

#### Bills Read and Referred.

The Chair, Lieutenant Governor Davidson, had referred, after their captions had been read, the following House bills:

H. B. No. 295, referred to Committee on Mining, Irrigation and Drainage.

H. B. No. 428, referred to Committee on Educational Affairs.

H. B. No. 328, referred to Committee on State Affairs.

H. B. No. 45, referred to Committee on State Affairs.

H. B. No. 278, referred to Committee on State Affairs.

#### Bills Signed.

The Chair, Lieutenant Governor Davidson, gave notice of signing, and did sign, in the presence of the Senate, after their captions had been read, the following bills:

H. B. No. 1.

H. B. No. 58.

H. B. No. 103.

#### Additions to Committee.

(By Unanimous Consent).

We move that Senators Wirtz and Bailey be added to Committee on Gov. Nominations.

THOMAS.

FAIRCHILD.

HOLBROOK.

The motion carried.

#### Adjournment.

On motion of Senator Witt, the Senate at 5 p. m. adjourned until 10 o'clock a. m. tomorrow.

#### APPENDIX A.

##### Petitions and Memorials.

Senator Woods offered and had read a petition signed by 150 Navarro and Freestone county tax paying citizens protesting against the passage of House Bill proposing creating a new county, and urging opposition to the measure.

Senator McMillin sent up and had read a communication and petition from Galveston, strongly protesting the passage of the proposed Medicine Practice Act.

Senator Burkett had read a petition from Rotan physicians, pastors and citizens, protesting against Christian Scientists being exempted from provisions of proposed Medical Practice Act.

Senator Witt offered, and Secretary read a communication from Riesel citizens, urging certain revenue measures to enable Legislature to appropriate an adequate sum for maintenance of schools.

##### Committee Reports.

Senate Chamber.

Austin, Texas, Feb. 13, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 204 carefully compared and find same to be correctly engrossed.

DOYLE, Chairman.

Senate Chamber,

Austin, Texas, Feb. 13, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 205 carefully compared and find same to be correctly engrossed.

DOYLE, Chairman.

Senate Chamber,

Austin, Texas, Feb. 13, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 83 carefully compared and find same to be correctly engrossed.

DOYLE, Chairman.

Senate Chamber,  
Austin, Texas, Feb. 13, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 206 carefully compared and find same to be correctly engrossed.

DOYLE, Chairman.

Senate Chamber,  
Austin, Texas, Feb. 13, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 42 carefully compared and find same to be correctly engrossed.

DOYLE, Chairman.

Senate Chamber,  
Austin, Texas, Feb. 13, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 107 carefully compared and find same to be correctly engrossed.

DOYLE, Chairman.

Senate Chamber,  
Austin, Texas, Feb. 12, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have carefully compared Senate Bill No. 165, and find the same correctly enrolled and have this day at 5:30 o'clock p. m. presented the same to the Governor for his approval.

DARWIN, Chairman.

Senate Chamber,  
Austin, Texas, Feb. 12, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have carefully compared Senate Bill No. 52, and find the same correctly enrolled and have this day at 5:30 o'clock p. m. presented the same to the Governor for his approval.

DARWIN, Chairman.

Committee Room,  
Austin, Texas, Feb. 10, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Criminal Jurisprudence, to whom was referred

S. B. No. 245, A bill to be entitled "An Act to amend Article 1207c, Title 17, of the Code of Criminal

Procedure of the State of Texas, (Acts 1917) so as to provide for the creation of a juvenile board, and to create same, in such counties of this State as now, or may hereafter have taxable values not less than \$40,000.000.00 and not more than \$60,000.000.00; to be optional with the commissioners' court whether or not the members of such board shall be allowed compensation; providing for fees of sheriffs; and providing who shall constitute said board, and declaring an emergency."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do not pass.

TURNER, Chairman.

Committee Room,  
Austin, Texas, Feb. 10, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Criminal Jurisprudence, to whom was referred

S. B. No. 190, A bill to be entitled "An Act providing that all applications for marriage licenses in this State shall be filed with the county clerk of each county in this State sixty days before the final issuance of such license; such applications to be kept for the county clerk of such county in a secret record; providing for the enforcement of penalties for violation of the provisions of this Act; and declaring an emergency."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do not pass.

TURNER, Chairman.

(Majority Report.)

Committee Room,  
Austin, Texas, Feb. 12, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred

S. B. No. 242, A bill to be entitled "An Act to amend Article 4621, Chapter 3, Title 68 of the Revised Statutes of Texas of 1911, as amended by Chapter 194, Section 1 of the Acts of the Regular Session of the Thirty-fifth Legislature and by Chapter 130, Section 1 of the Acts of the Regular Session of the Thirty-seventh Legislature, by pro-

viding that the separate property of the wife may be mortgaged, pledged or incumbered for any purpose."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do not pass.

BAILEY, Chairman.

(Minority Report.)

Committee Room,

Austin, Texas, Feb. 12, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, a minority of your Committee on Civil Jurisprudence, to whom was referred S. B. No. 242, have had the same under consideration, and beg leave to report the same back to the Senate with the recommendation that it do pass.

FAIRCHILD,  
BURKETT.

Committee Room,

Austin, Texas, Feb. 12, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred H. B. No. 102, A bill to be entitled "An Act to provide for revising, digesting, annotating and publishing the civil and criminal laws of the State of Texas, and to require the commissioners appointed to revise the Statutes; to prepare two bills, one providing a civil and one a criminal code of practice in the courts of this State, and report the same to the Governor, who shall submit the same to the Legislature."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass, with the following committee amendment:

Strike out all after the enacting clause and insert the following:

Section 1. The Governor shall appoint three commissioners who shall be learned in the law, whose duty it shall be to make a complete revision and digest of the laws, civil and criminal of the State of Texas, and annotate the same in accordance with the provisions of this Act. Said commissioners shall adopt such of the Revised Statutes, civil and criminal, as have not been repealed or amended or held to be unconstitutional, together with an ap-

propriate arrangement of titles, articles, chapter headlines and section headlines, and shall not change the words or punctuation thereof except in cases of evident clerical or typographical error; or to improve the verbiage or to make clear the meaning of the text, provided, the present numbering or arrangement of the articles and sections is not required to be preserved.

Sec. 2. All statutes passed since the adoption of the Revised Statutes, including those passed at the Regular and Special Sessions, if any, of the Thirty-second Legislature, and those that may have been passed at the time said commissioners shall submit their report herein provided for, which statutes by their terms are amendatory of the Revised Statutes or are germane thereto, shall be incorporated in appropriate places in such statutes, and all others of said statutes passed as aforesaid which are general and permanent in their nature shall be collated and arranged into their appropriate titles, chapters and articles, section head-lines and chapter head-lines similar to those used in the present Revised Statutes; provided, that in revising the Statutes referred to in this section, said commissioners shall without making radical changes therein, so revise them as to render them concise, plain and intelligible; provided, further, that the Civil Statutes, the Penal Code and the Code of Criminal Procedure shall each be separately annotated and indexed, and the index placed at the end of each of such subdivisions.

Sec. 3. Said commissioners shall embody the result of their labor in two bills, one containing the entire body of the Civil Statutes and the State Constitution as adopted and amended and annotated and digested, and the other, the entire body of the statutes relating to the criminal law both properly indexed, annotated and digested, which bills said commissioners shall report to the Governor before the meeting of the Thirty-ninth Legislature; and it shall be the duty of the commissioners to cause five hundred copies of the same to be printed at the expense of the State, under such rules, regulations and terms as the commissioners may require.



Sec. 4. Said commission shall supervise the printing of said bills and reports: they shall be authorized and empowered to employ any persons, firm or corporation to compile, annotate, digest and properly index and to print, bind and deliver said statutes, and the Comptroller of the State is hereby authorized to issue warrants on the State Treasury in payment for any work so done under their direction, upon vouchers certified to by said commissioners and said commissioners shall receive no compensation for the duties herein prescribed, provided, however, that they shall be allowed their actual expenses when at such times they are necessarily engaged in the performance of their work, and the certificate of the Governor shall authorize the Comptroller to draw his warrant on the Treasurer for the payment of such expenses.

Sec. 5. The Secretary of State shall be the custodian of the printed volumes herein provided for. The provisions of the statutes now in existence relative to the Revised Civil Statutes of 1911 and the Penal Code and the Code of Criminal Procedure of 1911 shall be applicable to the Revised Statutes, Civil and Criminal, herein provided for except where in conflict with this Act, provided, that the number of copies of said statutes herein provided for to be purchased by the State may be designated by the Legislature in the future.

Sec. 6. For the purpose of carrying out the provisions of this Act, there is hereby appropriated out of any money in the State Treasury not otherwise appropriated, the sum of fifteen thousand dollars (\$15,000.00), or so much thereof as may be necessary.

Sec. 7. The difficulty in knowing what the law is and where to find it in the great mass of accumulated Sessions Acts, and the constitutional authorization of a decennial revision, creates an emergency and an imperative public necessity requiring the suspension of the constitutional rule requiring bills to be read on three several days, and said rule is hereby suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted.

BAILEY, Chairman.

Committee Room,

Austin, Texas, Feb. 12, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred S. B. No. 166, A bill to be entitled "An Act to amend Article 1462, Chapter 2, Title 29, Revised Civil Statutes of 1911, as amended by Section 4, Chapter 134, Acts of the Thirty-fifth Legislature, 1917, providing qualifications for county auditors; also to amend Article 1463, Revised Civil Statutes of 1911, providing for bond of county auditors; also to amend Article 1497, Revised Civil Statutes of 1911, providing for removal of county auditors, and also by adding Subdivision A thereto, providing that county auditors shall furnish certificates and other written information from the records, books and accounts kept in their office to the Commissioner of Insurance and Banking, or national or State bank examiner; and providing for removal from office and criminal prosecution for failure to furnish same; also to amend Chapter 25, Title 18 of the Penal Code by amending Article 1578 thereof so as to add Subdivision A, making it unlawful for any county auditor or assistant county auditor to willfully furnish any certificate or other written information concerning or relating to public finances or moneys not based upon the official records, books or accounts in the office of the county auditor, and providing a penalty therefor; also to amend said Article 1578 of said Chapter and Title of the Penal Code by adding thereto Subdivision B, providing that it shall be unlawful for any bank official, or any servant, or agent, or employee of any bank to wilfully fail to furnish, or refuse or neglect to furnish to the county auditor of any county in this State, or any assistant county auditor any information concerning or relating to any public moneys or funds, or any moneys or funds over which the county auditor by law exercises the power of control, or supervision, or examination and providing a penalty therefor; and further amending said Article 1578 of the Penal Code by adding Subdivision C thereto, providing that it shall be unlawful for any bank official, or agent, or servant or employee to wilfully furnish in writing any false statement or false certificate or false information concerning or relating to any public moneys

or funds on deposit with any bank, over which the county auditor by law exercises the power of control, or supervision, or examination, and providing a penalty therefor; and declaring an emergency."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass, with the following committee amendments:

Committee Amendment No. 1.

On page 2, Section 1, Article 1462, strike out after the word "details" the following:

"And shall hold a certificate as certified public accountant of the State of Texas as provided by Chapter 122, General Laws, Regular Session, Acts of the Thirty-fourth Legislature, 1915, being Title 122a, Chapter 1, Complete Texas Statutes 1920." Also on the same page 2, Section 1, under Article 1462, strike out after the word "intelligence" the following: "And shall have procured a certificate as a certified public accountant of the State of Texas as provided for by Chapter 122, General Laws, Regular Session, Acts of the Thirty-fourth Legislature, 1915; and provided further that in event the State Board of Public Accountancy after appointment of said person shall revoke said person's certificate as a certified public accountant of the State of Texas for any of the reasons specified and set out in Section 11, Chapter 122, General Laws, Regular Session, Acts Thirty-fourth Legislature, 1915, such revocation shall ipso facto revoke the appointment of such person as county auditor."

Committee Amendment No. 2.

On page 3, Section 2, under Article 1463, by adding after the words "in the sum of" the following words: "not less than." Also on page 3, Section 2, under Article 1463, and after the words "to be" and before the word "approved" the word "fixed and." Also on page 5, Subdivision A in the third line, between the words "willfully" and "furnished" add the words "fail to."

BAILEY, Chairman.

Committee Room,

Austin, Texas, Feb. 12, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred

S. B. No. 264, A bill to be entitled "An Act to amend Article 3681,

Chapter 3, Title 53 of the Revised Civil Statutes of Texas, 1911, relating to the taking of depositions, and declaring an emergency."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

BAILEY, Chairman.

Committee Room,

Austin, Texas, Feb. 12, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred

S. B. No. 291, A bill to be entitled "An Act to amend Article 7381 of the Revised Civil Statutes of 1911, providing for the payment of a gross receipts tax by all persons, companies, corporations and associations of persons engaged in publishing, printing or selling text books used in the schools of this State, or law books, or owning, controlling or managing any such business as text books or law books purchasers so as to exempt any corporation organized by the students and faculty of any State supported institution of learning without capital stock and which pays no dividends and is organized for the purpose of supplying books and other school supplies to the students of such institution and whose assets on the dissolution of the corporation passes to the governing board of the institution as a trust fund to be used for the benefit of the institution, and declaring an emergency."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

BAILEY, Chairman.

Committee Room,

Austin, Texas, Feb. 12, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred

S. B. No. 299, A bill to be entitled "An Act repealing Article 7377 of the Revised Civil Statutes of the State of Texas, providing for an occupation tax on the gross sales of wholesale dealers in mineral oils refined from petroleum."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

BAILEY, Chairman.

Committee Room,

Austin, Texas, Feb. 12, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred

S. B. No. 300, A bill to be entitled "An Act providing the manner in which notice may be given by a party to a proceeding before any commission, board or other administrative or quasi-judicial agency in this State, that he will not abide by, or that he appeals or intends to appeal from, the final order, ruling or decision of such commission, board or other agency; providing that this Act shall be cumulative of other laws specifying the manner in which any such notice may be given; repealing all laws and parts of laws in conflict herewith, and declaring an emergency."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

BAILEY, Chairman.

Committee Room,

Austin, Texas, Feb. 12, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Judicial Districts, to whom was referred

S. B. No. 197, A bill to be entitled "An Act to amend Section 1 of an Act passed by the Thirty-fourth Legislature of Texas and approved March 22, 1915, creating the Tenth Supreme Judicial District of Texas, the same being Chapter 70 of the Acts of the Regular Session of the Thirty-fourth Legislature and to create the Tenth Supreme Judicial District of Texas and to provide for the organization of a Court of Civil Appeals within said Tenth Supreme Judicial District and to repeal all laws in conflict herewith, and declaring an emergency."

Have had the same under consideration, and beg leave to report the same back to the Senate with a recommendation that it do pass.

POLLARD, Chairman.

Committee Room,

Austin, Texas, Feb. 12, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Judicial Districts, to whom was referred

S. B. No. 244, A bill to be entitled "An Act reorganizing the State of Texas into Supreme Judicial Districts, for the purpose of constituting and organizing Courts of Civil Appeals therein; creating the Tenth Supreme Judicial District of Texas, with Eastland as the site of said court; providing for the appointment and qualification of the judges of said Tenth Supreme Judicial District, and other officers thereof; providing for the transfer of cases and regulating appeals from the lower courts of the counties constituting said Tenth Supreme Judicial District of Texas; and declaring an emergency."

Have had same under consideration, and I am instructed to report it back with the recommendation that it do pass.

POLLARD, Chairman.

Committee Room,

Austin, Texas, Feb. 12, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Judicial Districts, to whom was referred

H. B. No. 335, A bill to be entitled "An Act amending Sections 3, 5 and 6 of Chapter 33 of the General Laws of the State of Texas, passed by the Thirty-seventh Legislature at its regular session, approved March 18, 1921, which was an Act entitled, 'An Act reorganizing and adjusting the Fourth and Seventy-first Judicial Districts of Texas, incorporating Gregg County in the Seventy-first Judicial District and fixing the time of holding court in each of the several counties of said two districts and providing for the proper administration of said courts; and declaring an emergency,' the purpose of this amendment being to amend Section 3 of said Act so as to rearrange the times of holding courts in the Seventy-first Judicial District of Texas, which composes Harrison and Gregg Counties, and making provision for the validity of process and declaring an emergency."

Have had the same under consideration, and I am instructed by the committee to report the same back to the Senate with the recommendation that it do pass.

POLLARD, Chairman.

Committee Room,  
Austin, Texas, Feb. 13, 1923.  
Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Roads, Bridges and Ferries, to whom was referred

S. B. No. 237, A bill to be entitled "An Act with reference to the public roads in Fayette, Colorado, Lavaca and Austin Counties; exempting all firemen employed by any municipality or other governmental agency in such counties from road or street duty or payment of any money in lieu thereof; and declaring an emergency."

Have had same under consideration, and I am instructed to report it back with the recommendation that it do pass, and be not printed.

BURKETT, Chairman.

Committee Room,  
Austin, Texas, Feb. 13, 1923.  
Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Roads, Bridges and Ferries, to whom was referred

H. B. No. 101, A bill to be entitled "An Act to repeal Sections 14, 16 and 17, of Chapter 111, Local and Special Laws, passed at the Regular Session of the Thirty-fifth Legislature, said Act being an Act amending Cass County Road Law passed by the Thirty-third Legislature at its Regular Session, 1913; and authorizing Cass County, Texas, or any political subdivision or defined district thereof, to issue road bonds under the General Law; validating bond election heretofore held in Road District No. 16, a defined road district in said county; and declaring an emergency."

Have had same under consideration, and I am instructed to report it back with the recommendation that it do pass, and be not printed.

BURKETT, Chairman.

Committee Room,  
Austin, Texas, Feb. 13, 1923.  
Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on

Roads, Bridges and Ferries, to whom was referred

H. B. No. 395, A bill to be entitled "An Act providing more efficient road laws for Bexar County, conferring on the commissioners' court of Bexar County control of all roads bridges, drains, ditches, culverts and all works incident to same; authorizing the employment of all necessary labor, teams, wagons, and clerical help, and providing payment therefor; providing for road or ditch crossings wherever necessary, and acquiring of land for same; authorizing the appointment of a county highway engineer, road superintendents and assistant engineers and other assistants, regulating the working of convicts, exempting all persons from work and abolishing the office of road overseer, defining the word "road," repealing all laws and parts of laws in conflict herewith, and declaring an emergency, and expressly amending Section 17 thereof and declaring an emergency."

Have had same under consideration, and I am instructed to report it back with the recommendation that it do pass, and be not printed.

BURKETT, Chairman.

Committee Room,  
Austin, Texas, Feb. 13, 1923.  
Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Roads, Bridges and Ferries, to whom was referred

H. B. No. 136, A bill to be entitled "An Act amending Section 39 of Chapter 42, General Laws of the First Called Session of the Thirty-seventh Legislature, relative to public roads and highways, so as to except and exempt from the provisions of said Chapter the counties of Anderson, Austin, Bastrop, Colorado, Crane, Ector, Hardin, Hidalgo, Kent, Lavaca, Loving, Liberty, Marion, Morris, Martin, Midland, Nacogdoches, Palo Pinto, Robertson, Stonewall, Scurry, Stephens, San Jacinto, Taylor, Ward, Walker, Winkler and Upton, and declaring an emergency."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

BURKETT, Chairman.

Committee Room,  
Austin, Texas, Feb. 13, 1923.  
Hon. T. W. Davidson, President of  
the Senate.

Sir: We, your Committee on Internal Improvements, to whom was referred

S. B. No. 220, A bill to be entitled "An Act authorizing the Galveston & Western Railway Company to abandon a portion of its track and line of railroad in the city of Galveston, Galveston county, Texas, and to relinquish its rails and track material to the city of Galveston."

Have had the same under consideration, and beg to report it back to the Senate with the recommendation that it do pass.

FAIRCHILD, Chairman.

Committee Room,  
Austin, Texas, Feb. 13, 1923.  
Hon. T. W. Davidson, President of  
the Senate.

Sir: We, your Committee on Internal Improvements, to whom was referred

S. B. No. 314, A bill to be entitled "An Act authorizing the Gulf, Colorado and Santa Fe Railway Company to purchase, own and operate the railroad and other property with its franchises and appurtenances, now or hereafter owned by Galveston and Western Railway Company in the city of Galveston, State of Texas, west of the east line of Thirty-eighth Street, or any part or parts thereof, including all ordinances of the city of Galveston now existing or hereafter passed relating to rights or franchises in the streets of said city west of the east line of said Thirty-eighth Street, and declaring an emergency."

Have had same under consideration, and beg to report same back to the Senate with the recommendation that it do pass.

FAIRCHILD, Chairman.

(Majority Report.)

Committee Room,  
Austin, Texas, Feb. 13, 1923.  
Hon. T. W. Davidson, President of  
the Senate.

Sir: We, your Committee on Stock and Stock Raising, to whom was referred

S. B. No. 203, A bill to be entitled "An Act to amend Articles 7315 inclusive of Chapter 8, Title 124 Re-

vised Civil Statutes, 1911, as amended by Chapter 169, General Laws passed at the Regular Session of the Thirty-third Legislature, as amended by Chapter 111, General Laws passed at the Regular Session of the Thirty-fourth Legislature as amended further by Chapter 60, General Laws passed at the Regular Session of the Thirty-fifth Legislature and as further amended by Chapter 10, General Laws passed at the Fourth Called Session of the Thirty-sixth Legislature, all of which relate to the Live Stock Sanitary Commission, by adding a section thereto providing that under certain conditions and regulations cattle may be shipped from one point to another within the State of Texas."

Have had the same under consideration, and I am instructed to report it back with the recommendation that it do not pass, and that the Senate Committee Substitute Bill No. 203 do not pass.

PARR, Chairman.

(Minority Report.)

Committee Room,  
Austin, Texas, Feb. 13, 1923.  
Hon. T. W. Davidson, President of  
the Senate.

Sir: We, a minority of your Committee on Stock and Stock Raising, to whom was referred S. B. No. 203, beg leave to report that said bill do not pass, but that the following substitute bill No. 203 pass in lieu thereof: "An Act to amend Articles 7315 to 7324 inclusive of Chapter 8, Title 124, Revised Civil Statutes, 1911, as amended by Chapter 169, General Laws passed at the Regular Session of the Thirty-third Legislature, as amended by Chapter III, General Laws passed at the Regular Session of the Thirty-fifth Legislature, and as further amended by Chapter X, General Laws passed at the Fourth Called Session of the Thirty-sixth Legislature, all of which relate to the Live Stock Sanitary Commission, by adding four sections thereto, providing that under certain conditions and regulations, cattle may be shipped from one point to another within the State of Texas, and adding penalties."

BOWERS,  
STRONG.

Committee Room,  
Austin, Texas, Feb. 13, 1923.  
Hon. T. W. Davidson, President of  
the Senate.

Sir: We, your Committee in Agricultural Affairs, to whom was referred

S. B. No. 307, A bill to be entitled "An Act to amend Chapter 62, page 105, General Laws Regular Session, Thirty-second Legislature, approved March 13, 1911, and Chapter 35, page 56, General Laws First Called Session, Thirty-fifth Legislature, approved May 19, 1917, so as to provide for the appointment of county farm and canning demonstration agents, and payment of same out of the county funds after January 1, 1925, only after approval thereof by a majority of the qualified voters of the county voting for an election for that purpose, and providing for the holding of elections thereon."

Have had same under consideration and beg leave to report same back to you with recommendation that it do pass.

COUSINS, Chairman.

(Majority Report.)

Committee Room,  
Austin, Texas, Feb. 13, 1923.  
Hon. T. W. Davidson, President of  
the Senate.

Sir: We, a majority of your Committee on State Affairs, to whom was referred House Concurrent Resolution No. 4 entitled

"Providing for an investigation of the recent contracts let by the Texas State Text Book Commission, providing how such investigation shall be conducted and providing how the result of such investigation shall be used."

Have had the same under consideration, and beg leave to report the same back to the Senate with the recommendation that it do not pass.

WITT, Chairman.

(Minority Report.)

Committee Room,  
Austin, Texas, Feb. 13, 1923.  
Hon. T. W. Davidson, President of  
the Senate.

Sir: We, a minority of your Committee on State Affairs, to whom was referred House Concurrent Resolution No. 4, entitled

"Providing for an investigation of the recent contracts let by the Texas State Text Book Commission, pro-

viding how such investigation shall be conducted and providing how the result of such investigation shall be used."

Have had the same under consideration, and beg leave to report the same back to the Senate with the recommendation that it do pass, and be printed in the Journal.

Witt, Clark, Davis, Ridgeway.

#### APPENDIX B.

#### Assessed Valuations All Property in Texas.

(Printed on motion of Senator Witt.)

Reference to tables 71 and 72 and page 49 of the report for the year 1922 of the Comptroller of Public Accounts, will show, that of the total assessed valuations of all property in the State therein given amounting to \$4,242,266,587.

Land was assessed	
at 40 %	\$1,292,827,525
Town lots at 40 %	850,433,520
Horses and mules	
90 % on farms and	
ranches 1.8 %	58,233,401
Cattle, 95 % on farms	
and ranches 2.6 %	86,021,186
Hogs, sheep, goats,	
jacks 43 %	14,111,887
Total of land, town lots, cattle,	
horses, hogs, etc., on farms and	
ranches 70.83 %	

Total of strictly land, not including town lots but including cattle, etc., 44.83 %.

It is true that the oil interests own considerable city property upon which they are entitled to credit. It is also true that land owners own a considerable part of other items shown on page 49, assessed as miscellaneous, carriages, automobiles, etc., and that, to a large extent, taxes, including the tax on oil, diffuse themselves among the population including owners of the land, so that, in the end, land out of its direct income, whatever it may be, pays, not only its own taxes but on a basis of relative populations, a very large per cent of all other taxes.

#### Gross Receipts on Crude Oil Production.

Oklahoma—Tax levied 3 %—assessed to producers and royalty owners in proportion to interests of each.

Lease and property at the well is exempt from advalorem tax. As to State advalorem taxes this is practically true of all property. Oklahoma has an income tax, taking the place of the property tax and applicable to all alike. Those interested in oil production, pipe lines and refineries are subject to the Oklahoma State income tax.

No tax is levied upon production of oil from what is known as Osage lands; these being under Federal control. Competition with "free tax" Osage oil is no less keen with the small producers than the large concerns. No one will claim that in Oklahoma the levy of a 3% gross production tax, applicable alike to all, has resulted in disaster to the small producers. Yet we are told that such a course in Texas would be "unwise statesmanship" and precipitate a veritable panic. Incidentally, the total revenue to the State of Oklahoma from gross receipts tax on oil production for the year 1922 was close to \$5,000,000. The amount derived from the same occupation in Texas for the fiscal year ending September 30, 1922, was \$2,441,000.00.

#### Argument in Favor of 5 Per Cent Gross Production Tax.

By Roy C. Coffee of Wise County.

Printed on motion of Senator Fairchild:

Mr. Chairman and Gentlemen of the Committee:

I enjoyed the hearing the other night when Judge Gill so ably presented the argument for the oil interests of Texas. I also enjoyed the argument just presented by the gentleman who preceded Mr. Shires, in behalf of the oil interests. I further enjoyed Mr. Shires' argument in behalf of his bill, and I heartily agree with each of the gentlemen that we ought to be just and fair in the taxation of all industries and I believe this committee is anxious to be just and fair to all.

But in coming before you in behalf of the measure under consideration, I have no selfish interest to represent. I am not paid to represent the interest of anybody in behalf of this bill. I am here simply to represent what I believe to be the right of the State and the interest of the people in gen-

eral. If I should care to look at it from a personal, selfish standpoint, I would be tempted not to offer any measure to place a tax on oil, but to fight all such measures. Some of my best friends are engaged in the production of oil. The papers now report an oil well within three miles of my home and many others are being drilled over Wise County; and I realize well that a young man, starting out upon the journey of life, needs to have as many friends with wealth and influence as is possible for him to obtain, but I have never seen fit, nor have I ever deemed it proper to surrender a principle I believe to be just and right in order to hold or obtain the friendship of anyone. I never fall out with a person because he differs with me, and I give to the gentlemen of the opposition the same honesty and sincerity of purpose that I reserve to myself. I realize that in presenting the argument in favor of this measure I shall be unable to cope with the able and splendid talent employed by the opposition.

In taking up the bills presented to this committee, let us notice the conditions we are facing. At the convening of this Legislature, we faced this situation, the public schools of the State were needing money, the State Treasury was depleted and the Governor stated that no appropriation would be approved until we provided sufficient revenue. Several revenue measures were prepared for introduction at this session of the Legislature. In view of the fact that I had introduced a gross receipts tax bill on the gross production of oil at the Thirty-seventh Legislature, which was not passed, several members came and asked me to introduce and handle the measure again in this session of the Legislature. I agreed to do so, and in co-operation with the Tax Commissioner and the Attorney General's Department, a bill was drawn up and the rate was placed at 5 per cent in harmony with the Governor's recommendation. Thirty-two members of the House then signed the bill with me before it was introduced.

This bill has two provisions, which the present law and the Shires' bill does not contain. The first is in reference to common law trusts, who claim exemption under the present law and refuse to pay a tax. Here is a copy of a letter from the Admiral Oil

Company to the Comptroller, which shows the necessity for this provision:

Fort Worth, Texas, Jan. 19, 1923.

Hon. Lon A. Smith, State Comptroller,  
Austin, Texas.

Dear Sir: Enclosed you will find a statement of the production of the Admiral Oil Company for the quarter ending December 31, 1922.

The statement is made out in duplicate except that one covers the amount due under the 1 1-2 per cent tax, and the other 1-20 of 1 per cent tax.

We wish to call your attention to the fact that the Admiral Oil Company is a common law trust, without partnership, association or any other relationship whatever interested, as approved by the Supreme Court in the case of Crocker vs. Malley, 249 U. S. 223. We are informed by our attorney that the provisions of Article 7383, Chapter Two, Title 126 of the Revised Civil Statutes of 1911, do not apply to this form of organization.

Until the law is amended to cover common law trusts, or until a decision has been rendered by one of the higher courts of Texas, we are withholding the payment of the tax.

Very truly yours,  
Admiral Oil Company,  
F. E. Browne, Secretary.

Several similar letters have been received by the Comptroller and thousands upon thousands of dollars, which these companies owe to the State have not been paid.

The other provision is in regard to bonuses received by the oil companies. The necessity for this provision is shown by the following extracts from the report of the Tax Commissioner:

"The gross receipts tax on oil production, to an extent, takes the place of a severance tax. The privilege of drawing upon the State's economic wealth is measured by the value and volume of the severed mineral. As hereinbefore stated, the tax is not imposed until the quantity and value of the severed mineral is known. It would be difficult to select a taxable coming more clearly within the class of those having ability to pay; nor one, in the very nature of its being, more justly owing a duty to the State. Neither should it be an arduous task to arrive at proper value of the produced minerals upon which the tax is imposed. However, examination of the records in the State Comptroller's Department will disclose that the State

is directly and materially concerned in the definition properly to be given to the language 'the average market value' as used in the statute; whether it should be construed as the 'posted price' or the actual consideration paid and received in actual transactions of purchase and sale. When the posted price of one and one-half dollars (\$1.50) per barrel is paid, plus a bonus of 50 cents, it would appear that two dollars per barrel is the true value of the property. When the posted price, plus a bonus ranging from 25 cents to 80 cents per barrel is the established rule and not the exception, it would seem that the total of the two becomes the market value.

"Under the present ruling the 'posted price' usually prevails; not the actual consideration paid and received. From the standpoint of the State's expectant revenue, the difference represents a material loss to the State annually. From the standpoint of oil well operators, automatically, as a reduction of the tax as fixed by the statute. Without surrendering any rights accrued, the Legislature should determine the issue by giving proper statutory definition to the language 'average market value.' The amount of revenue involved is considerable and should receive prompt and legislative consideration."

The Shires bill does not contain these provisions; the only difference between the bills is the difference in rate.

I believe the 5 per cent gross production tax is just and equitable for several different reasons.

1. The producer does not pay a cent of tax until he produces the oil. If he digs a dry hole, there is no tax on him.

2. The producer pays in proportion to his production. If a well produces a thousand barrels, at 5 per cent, fifty barrels would go to the State, while if he only produces one hundred barrels, only five barrels would go to the State. Again the tax will vary in proportion to the value of the oil produced. If a barrel of oil is worth \$1.50 per barrel, at 5 per cent the tax would be 7 1-2 cents, then if oil falls in value to \$1.00 per barrel, at 5 per cent the tax would be 5 cents. Consequently, the tax will go up and down in accordance with the amount and value of production. There is no ad valorem tax so flexible and as equitable and just as this.



3. The gross production tax on oil should be higher than the tax on any other natural resource. Oil creates wealth faster and makes more millionaires over night than any other natural resource. The cost in proportion to the wealth produced is less than the cost with any other natural resource or industry. The fact that men will speculate and gamble in the oil game as they do, shows in itself that there is a handsome reward to the individual who taps this natural resource—this liquid stream of gold. Only a few will ever enjoy this privilege. And taxes upon privileges should be different and distinct from taxes upon property as characterized in the following statement from the Governor's message:

"Among activities coming under the provisions of our Gross Receipts Tax Law are oil companies; individuals, companies, corporations or associations, which own, control and manage or lease oil wells within this State. Under the provisions of the statute, an occupation tax is levied, measured by one and one-half per cent of the average market value of the oil produced. In effect, this to a certain extent takes the place of a severance tax, the levy being made upon the occupation or privilege of taking the severed mineral from the soil. The point should be emphasized that there is no relation between the severance tax and the property tax. Property tax is based on capital value; property we ourselves accumulate under protection of law. The severance tax is a tax upon privilege; the right to draw upon our economic wealth; our natural resources which have accumulated by the gradual operation of nature.

"The principles upon which the two are based are entirely distinct. Nor can it be said that such privilege or severance tax works a greater hardship upon activities so engaged than upon other business interests whose operating property may be of the same value."

Let us notice some concrete examples of this privilege. In my county there lived for a number of years, a man and his family. He labored and toiled as the years came and went and earned, as did the common run of people, an ordinary living. But he leased land—went into the oil game and sought to obtain a part of the State's greatest natural resource. He was successful. A producing well was brought in, and

the papers spread the report that he was a millionaire. Soon he was able to leave his humble home among the plain common people of that county, and move to Wichita Falls to reside in splendor. I was told that his son could ride the train each week from Wichita Falls to Dallas and pay \$50.00 for a private lesson in music. Yet, he and his family have worked no harder and toiled no more than the thousands of people of that county who will live and die and never earn more than the bare necessities of life—they will never have the privilege of drawing the liquid gold from the State's greatest natural resource. I do not envy this man's wealth—I am glad he has it; but I do contend that the State has protected him and allowed him to enjoy a most valuable privilege that the millions of common people of this State can never enjoy, and, by every rule of reason and right, the State is entitled to a good return for that privilege.

Col. Humphreys came to Texas a pauper; broke and in debt, but he struck it lucky in tapping our natural resources, and, in less than two years' time his fortune is measured by the millions. These are only illustrations that are true of a number of others, who we, the people, the State of Texas, have granted this privilege. Mind you, gentlemen, too, these are independent producers, the class of producers, whom these able gentlemen prated to us about being broke and unable to contribute anything to the State for their privilege.

The Governor, in two separate messages to this Legislature has urged that the State was entitled to at least 5 per cent as a minimum for the exercise of this privilege. They are as follows:

1. "We are now, and have been for some years, producing approximately ten million barrels of oil a month in Texas. This oil is worth, except when the Legislature is in session, about \$1.50 per barrel. That will aggregate in a year \$180,000,000 worth of oil. As a matter of equity, that oil belongs to Texas and she ought never to have relinquished her legal rights to it. These wells are rapidly draining Texas dry. Private interests will soon get stripings and all. While the oil production of the State is making paupers and millionaires, we should build some good roads and schoolhouses

with a part of this oil. Ought not the State AT LEAST AS A MINIMUM, GET FIVE PER CENT of this stream of gold flowing out of Texas?

2. "We are producing approximately ten million barrels of oil a month. We get practically no revenue out of it. This stream of gold flowing out of the State ought as a matter of equity contribute AT LEAST FIVE PER CENT OF ITS VOLUME to the upbuilding of the State out of whose soil this wealth comes."

4. There is still a further reason why 5% would be equitable and just. A few years ago, after Texas had sold most all of her public lands without reserving any mineral rights thereon, a law was passed, reserving 1/16 or 6¼% to the State of all the oil produced on the few remaining acres to be sold. And now on those few acres, the State holds its right to 6¼% when it sells to the buyer. This owner in turn holds his royalty when he leases to the oil companies. Does anyone question the rightness and justness of this law? If this 6¼% reserved to the State on these few acres is right, then certainly 5% of the oil produced on the multiplied millions of acres on which no reservation was made, is right. And if this 5% is unequitable and unjust, the 6¼% is unequitable and unjust and we ought to repeal that law.

It shall now be my purpose to follow along in the footsteps of the gentlemen of the opposition and pick up some of the arguments in opposition to this measure.

It was urged at length by the gentleman, who presented the argument the other night, that the Constitution says taxation should be equal and uniform. I heartily agree with him and with the provision that taxes should be equal and uniform. But I differ with the gentleman if he means to argue that taxes are now equal and uniform and that this tax on oil would violate that provision. What were the conditions when the Constitution was made, and do these same conditions exist today? If those same conditions do now exist, then tax laws that were equal and uniform then will be equal and uniform now. But if those conditions have changed, then tax laws that were equal and uniform then will not be equal and uni-

form when applied to different conditions today. When our Constitution was made, more than a half a century ago, we were a farming and agricultural State. Its wealth consisted almost wholly of the soil and its products. Natural mineral resources were undeveloped. They were practically free goods with little utility value. Since that time natural resources have become very valuable economic goods. The oil industry and other industries, which are reaping the benefit of our natural wealth, have sprung up as valuable privileges in the hands of a favored few. And all must admit that the conditions which existed then do not exist today. Taxes that may have been equal and uniform then are not equal and uniform today. When the land and tangible property owners of this State must pay more than 65% of the total taxes, when fourteen or fifteen men take out of this State over four hundred million dollars annually and pay little taxes for their privileges, when a fortunate few can grow rich off of the natural resources of this State, while the millions of common people, regardless of whether they earn a cent of profit, must bear the brunt and burden of taxation, I maintain that our taxes are not equal and uniform. It is high time we were meeting this situation face to face. Privilege is now more valuable property in Texas. We must make the oil interests and every other interest that enjoys protection and prosperity under this Government pay in proportion to the privilege they enjoy before we can have equal and uniform taxation, which the gentleman of the opposition is so anxious for us to maintain.

Another argument which the gentlemen of the opposition and the oil lobbyist are constantly ringing in our ears is to the effect that this tax will ruin the independent producers or operators; but, if you will carefully examine their arguments and the facts, you will find that it is nothing but a scare-crow to deceive us and to pull the wool over our eyes, so they may continue to greedily garner in the dollars rightly belonging to the State. I am ready to grant to the gentlemen that the law will perhaps not fit all just alike. No law can be made that will do that. I realize that in any busi-

ness or industry, there will be two extremes—varying in degree from those losing money to those making the most profit. But where can we find a tax more equitable and just to the little, independent producer? He pays in proportion, as stated in the beginning, to the amount and value of his production. If he produces no oil, he pays no tax. A big producer will pay a big tax, while a little producer will pay a little tax. In one instance, these gentlemen tell us that the big companies can easily pay this tax, because they have refineries which they do not have and can pass the tax on. In the next instance they claim we should not levy this tax because we are going to put one cent tax on gasoline. With inconsistency they fight all taxes. But they say these oil companies are busted—well most of them may be—that is most of the little stockholders are, and usually those who manage and manipulate these little independent companies succeed in breaking the company to their own benefit; but is Col. Humphrey broke and the number of other independent producers who have risen from the ranks of the common people to men of wealth? Let us notice the capital and surplus of some of those so-called busted oil companies:

Texas Company, capital \$164,450,000.00; surplus, \$83,549,181.12.

Gulf Production Co., capital, \$2,250,000.00; surplus, \$83,549,181.12.

Humble Oil & Ref. Co., capital, \$25,000,000.00, surplus, \$27,821,572.07.

Texas Pacific Coal & Oil Co., capital \$8,448,048.00; surplus, \$17,531,561.00; Prairie Oil & Gas Co., capital \$20,000,000.00, surplus, \$86,796,851.08; Sinclair Oil & Gas Co., capital \$10,100,000.00; surplus \$21,068,085.00.

Sun Oil Company (1921), capital \$7,920,000.00; surplus, \$13,297,789.00.

Republic Production Co. (1921), capital \$1,500,000.00; surplus \$1,074,727.00.

Livingston Oil Corp. (1921), capital \$1,000,000.00; surplus \$4,196,831.00.

These are some of the companies that produce most of the oil in Texas. And this statement does not show the profits they have made and paid out as dividends. Gentlemen,

wouldn't you like to be in the position of these poor busted oil producers we have heard about? It is peculiar how these poor, broke oil companies can employ the ablest and best talent to represent them before this committee. It is peculiar how these poor oil producers can support and maintain one of the most powerful and influential lobbies in Austin all the time the Legislature is in session, to tell us what the people of Texas need. As a matter of fact these, who are broke, have paid representatives here. For instance, the lady, where I boarded in the University, saved up after years of toil, a sum of money. One of these independent oil operators pictured to her wonderful pictures and took all her money and gave her beautiful stock in return. She is now broke and toils from daylight till dark to earn a bare living for herself and family. What is true with this lady is true with thousands of the poor, common people of Texas today. I dare say that the people of my county and your county have been fleeced out of enough money by the independent oil operators to pay for every hole that will be drilled in those counties. These independent oil operators have gotten their leases from the land owners practically for nothing, they have skinned a number of them out of their royalties, and then by their infamous schemery, have collected millions of dollars from the people of Texas and the United States for their beautiful paper stock. These poor people have no paid representative here, but they have a vital interest in this matter, and I daresay, they would be glad to see a 5% gross production tax levied on oil.

An argument was made the other night in which Mr. Paggi was used as an illustration. It ran something like this—Mr. Paggi is a small producer; last year he made only a small profit and, therefore, to levy this tax on him would be unjust. To follow this argument to its logical conclusion would lead to this. During the last few years the farmers and stockmen of Texas have not only failed to make a profit but have suffered severe losses, therefore, the State ought to give them a good sum of money instead of collecting taxes from them as it now does.

The gentlemen of the opposition have gone to a great length and have taken great pains to tell us how much money the oil companies spend in Texas, how many people they employ and how many people they clothe and feed. I am caused to wonder how such poor, busted companies could be such tremendous spenders? Will they explain? This argument is unsound and can have no bearing on the justness of the tax under consideration. Its only purpose is to blind the issue and pull the wool over our eyes. But let's notice the argument a little further. First, I believe if the multiplied thousands of people of Texas and the United States would donate their money to me and on top of that give me the greatest wealth producing resource known to man, as they have done to the oil interests, I believe I could spend a vast amount of that money in Texas, but that would not relieve me of the duty I owed to man and to the State in taxation. The saloons, when they ran wide open in Texas, employed their thousands of people and spent their millions of dollars here but that did not prove that it was so great a blessing to the masses of people and not a special privilege for the few—that, therefore, it should not be taxed by the State, and their entire argument in this regard when traced down and analyzed has not the slightest bearing on the question in hand.

It was stated by the gentleman the other night that we taxed the gross receipts of no other industry as high as we did the oil industry, namely 1½%. In refutation to this, I have copied from the statutes a few companies and industries that pay a higher gross receipts tax, namely

Pipe Line Companies 2%  
Express Companies 2½%  
Telegraph Companies 2¾%  
Car Companies 3%  
Sleeping, Palace and Dining Car Companies 5%

Mind you, gentlemen, in considering these rates, that by work and labor the services and products of these companies are made valuable while nature by its gradual action has placed most of the existing value on oil.

You were told the other night that Oklahoma levied a gross receipts tax of 3% in lieu of all other taxes, that

they did not levy an ad valorem tax as Texas does; but this is only part of the story. They did not tell you that Oklahoma levies an income tax on oil companies which we do not levy in Texas, and I understand that the money received from the gross receipts tax and the income tax on oil in Oklahoma far exceeds the amount we receive from our ad valorem and gross receipts tax combined. Other States receive a large revenue from their mineral resources.

"Pennsylvania receives annually under its severance tax law, revenues from its anthracite coal deposits along amounting to seven million dollars. West Virginia, under a similar statute receives annually from its mineral deposits two and one-half million dollars. In Minnesota an occupation or privilege tax is levied equal to six per cent of the value of all ores mined. This is in addition to all other taxes. The revenue from this source exceeds two million dollars per annum. In addition the mining properties of Minnesota pay an ad valorem tax in excess of eighteen million dollars per annum."

Gentlemen, in conclusion I realize that we are standing face to face with a situation we must meet. The schools, the public roads, the eleemosynary institutions are needing and demanding more revenue. Our treasury is empty and the farming and property interests of the State are bearing an unjust burden of taxation. Wherever we have turned to raise revenue, we have heard each interest tell how it was broke and unable to stand any increase in revenue. Whenever you touch taxation in any form you have got to fight. And the bigger and more powerful the interest the harder will be the fight. In seeking to make the privileged few, who are draining Texas dry of its greatest resource, contribute their just dues to the State and to the people of Texas, we must meet and cope with the most influential men and the ablest, shrewdest and keenest talent that money can buy. They can and do use the most cunning and subtle propaganda to influence the opinions of members of the Legislature who are unaware of its design. This, I felt we would have to meet when this bill was introduced at 5% in harmony with the

Governor's recommendation in his message to the Legislature. The other day the papers carried an article in which it was intimated that there was or would be a compromise between the oil men and the Governor at 2% or 2½%. Immediately upon reading this I went down to ask the Governor about it. He said that he had held conference with them but that he had not compromised or offered to compromise with them and that we should go ahead and fight it through. Yet all of this compromise talk has its effect in an effort to keep this Legislature from making them pay that which the State should receive. They try to frighten the members of the Legislature by saying they will take the matter to the courts if 5% is levied on them. Of course they will fight anything—but let the facts be clearly and fully presented to the courts and there is no court of equity but what will say it is just and fair tax on the privilege they enjoy. In view of the fact that one-fourth of the members of the house signed this bill, and since it is in harmony with the rate suggested by the Governor, I would like to see this committee report the bill at 5% and then if the House wants to amend it this can be done from the floor. I wish to thank the members of this committee and I fully appreciate the courtesy you have extended to me.

**Taxes Paid By the Following Producing Oil Companies From October 31, 1921, to September 30, 1922.**

American Refining Company .....	\$ 7,407.17
Atlantic Oil Production Company .....	35,430.72
Gulf Production Company..	237,383.22
Humble Oil and Refining Company .....	245,190.03
Humphrey Oil Company....	212,531.88
Kirby Petroleum Company..	23,189.36
Magnolia Oil Company.....	157,963.48
Mid-Kansas Oil and Gas Company .....	30,457.71
Panhandle Refining Company .....	28,938.16
Prairie Oil and Gas Company .....	27,513.01
Republic Oil Company .....	46,828.91
Sinclair Oil and Gas Company (Houston and Tulsa, Oklahoma) .....	27,352.31
Texas & Pacific Oil and Gas Company (for itself and	

other companies) .....	96,402.93
Texas Company .....	324,980.24
States Oil Company.....	21,639.11

Total for 15 companies ....\$1,523,208.24

Total Production Tax paid by all producers from October 1, 1921, to September 30, 1922 .....\$2,441,731.70

Thus 15 of the 756 companies pay more than three-fifths of the gross receipts tax.

Hence the remaining 741 little companies will pay a small part of the tax in comparison with the large companies.

Comptroller's Department State of Texas.

Austin, Texas, Feb. 7, 1923.

Hon. R. C. Coffee, House of Representatives, Capitol.

Dear Mr. Coffee: Complying with your verbal request on yesterday, I am handing you a statement of the amount of taxes paid by fifteen of the largest companies reporting gross production of oil to this office and paying the 1½% gross production tax upon the value of such production. I show at the bottom of said statement the total amount of taxes received for the same time from all producers of oil in the State of Texas.

I am also enclosing you, as per your request, copy of the letter from the Texas and Pacific Oil and Gas Company claiming that they have some time in the past over paid on the gross production tax more than \$23,000.00 and for the current quarter they failed and refused to remit more than \$16,000.00, which they are due, claiming that they are taking credit for the current quarter of the amount heretofore overpaid by them. This company and others following this procedure without filing in this State a scintilla of evidence of such over payment and I am enclosing a copy of my reply to such company. I am also enclosing you a copy of a letter from George Begge making the same claim and a copy of my reply to such claim.

Answering your further inquiry, I have to advise that since the opinion of the Attorney General holding that the posted price of oil, in any field, is the controlling price interpreted as the "average market value" of such oil practically all of

the companies are being governed in their reports to this office of the average market value, by such ruling and the State is losing, approximately from twenty-five cents to sixty cents per barrel on oil produced in this State which is being paid as a bonus or premium above the posted market price.

Answering your further inquiry regarding the amount of money received from wholesale dealers in the products of crude petroleum, I have to advise that since the opinion of the Attorney General, rendered to this office, that producing oil companies refining their own products or buying crude petroleum and refining same and selling all of such products to be sold again are not subject to the tax levied on the products of crude petroleum and the receipts of the State from such source are practically stopped, the greater part of wholesale dealers becoming merely agents of the refineries.

In view of the fact that the value of the crude oil produced in Texas from October 1st, 1921, to September 30th, 1922, aggregated \$177,000,000.00 and ninety per cent of such crude petroleum being refined in this State which refined products are, at least, to be valued at two or three times the value of the crude production, and the State receives practically no tax under the law levying a two per cent upon the products of crude petroleum.

Answering your further inquiry, I have to advise that as this office has but one traveling gross receipt auditor it is absolutely impossible for this one man to visit every producing field in the State and audit the books of the thousands of oil producers, a large portion of which producers have their offices outside of the State.

Trusting that this information will be of use to you and with personal regards, I am,

Very truly yours,

LON A. SMITH, Comptroller.

#### TWENTY-SIXTH DAY.

Senate Chamber,  
Austin, Texas,

Wednesday, February 14, 1923.

The Senate met at 10 o'clock a. m. pursuant to adjournment, and was called to order by Lieutenant Governor T. W. Davidson.

The roll was called, a quorum being present, the following Senators answering to their names.

Bailey.	Parr.
Baugh.	Pollard.
Bledsoe.	Rice.
Bowers.	Ridgeway.
Burkett.	Rogers.
Clark.	Strong.
Cousins.	Stuart.
Darwin.	Thomas.
Davis.	Turner.
Doyle.	Watts.
Fairchild.	Wirtz.
Holbrook.	Witt.
Lewis.	Wood.
McMillin.	Woods.
Murphy.	

Absent—Excused.

Dudley. Floyd.

Prayer by Rev. George Green, pastor First Baptist Church of Austin.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Watts.

#### Bills and Resolutions.

By Senator Davis:

S. B. No. 328, A bill to be entitled "An Act to fix the salaries of the judge of the County Court of Dallas County at Law No. 1 and of the County Court of Dallas County at Law No. 2, and prescribe the method and source of payment, to repeal all laws in conflict herewith and to declare an emergency."

Read first time and referred to Committee on State Affairs.

By Senator Burkett:

S. B. No. 329, A bill to be entitled "An Act to amend Sections 20 and 21 of Chapter 207 of the General Laws of the Thirty-fifth Legislature, fixing the rate of speed for automobiles upon public highways, etc., and repealing all laws and parts of laws in conflict herewith."

Read first time and referred to Committee on Criminal Jurisprudence.

By Senator Bledsoe:

S. B. No. 330, A bill to be entitled "An Act amending Section One of Chapter 46, Acts of the Third Called Session of the Thirty-sixth Legisla-